

ASIM K. DESAI (SBN: 175402)
adesai@grsm.com

STEVEN R. INOUE (SBN: 245024)
sinouye@grsm.com

GORDON & REES, LLP
633 West Fifth Street, 52nd Floor
Los Angeles, CA 90071
Telephone: (213) 576-5000
Facsimile: (213) 680-4470

MATTHEW C. LOVELL (SBN: 189728)
mlovell@nicolaidesllp.com

RICHARD H. NICOLAIDES, JR. (Appearance *Pro Hac Vice*)
rnicolaides@nicolaidesllp.com

DANIEL I. GRAHAM, JR. (Appearance *Pro Hac Vice*)
dgraham@nicolaidesllp.com

NICOLAIDES FINK THORPE
MICHAELIDES SULLIVAN LLP
101 Montgomery Street, Suite 2300
San Francisco, CA 94104
Telephone: (415) 745-3770
Facsimile: (415) 745-3771

Attorneys for Defendant
NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA.,
a Pennsylvania Corporation

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

YAHOO! INC., a Delaware corporation,

Plaintiff,

v.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA, a
Pennsylvania corporation,

Defendant.

Case No. 5:17-CV-00489-EJD

**NATIONAL UNION'S PROPOSED JURY
VERDICT FORM**

Pretrial Conference: January 24, 2019
Time: 1:30 p.m.
Trial Date: February 5, 2019

QUESTION 1: Has Yahoo proven by a preponderance of the evidence that National Union acted in bad faith with respect to the following?

a) Declining the defense of the *Sutton/Penkava* lawsuits?

YES _____ NO _____

b) Declining the defense of the *Holland /In re Yahoo Mail Litigation*?

YES _____ NO _____

c) Declining to indemnify Yahoo for the *Holland /In re Yahoo Mail Litigation* settlement?

YES _____ NO _____

If you answered "YES" to parts (a), (b), and/or (c) in this question, answer the corresponding part (a), (b), or (c) in Question 2 and answer part (d) in Question 2. If you answered "NO" to all parts of this question, answer no further questions and have the foreperson sign and date this form.

QUESTION 2: Has Yahoo proven by a preponderance of the evidence that the bad faith conduct you found occurred in Question 1 was a substantial factor in causing harm to Yahoo with respect to:

a) Yahoo's defense of the *Sutton/Penkava* lawsuits?

YES _____ NO _____

b) Yahoo's defense of the *Holland/In re Yahoo Mail Litigation*?

YES _____ NO _____

c) Yahoo's settlement of the *Holland /In re Yahoo Mail Litigation*?

YES _____ NO _____

d) Yahoo's need to hire an attorney to obtain the policy benefits awarded by the court?

YES _____ NO _____

If you answered "YES" to part (a), (b), (c), and/or (d) of this question, answer the corresponding part (a), (b), (c), and/or (d) in Question 3. If you answered "NO" to all

parts of this question that you answered, answer no further questions and have the foreperson sign and date this form.

QUESTION 3: What are Yahoo's damages for the harm you found in Question 2 was caused by National Union's bad faith conduct?

a) Yahoo's damages for National Union's bad faith breach of the duty to defend the Sutton/Penkava lawsuits?

\$_____

b) Yahoo's damages for National Union's bad faith breach of the duty to defend the Holland /In re Yahoo Mail Litigation?

\$_____

c) Yahoo's damages for National Union's bad faith breach of the duty to indemnify the Holland /In re Yahoo Mail Litigation?

\$_____

d) Yahoo's reasonable attorney fees incurred to obtain the policy benefits awarded by the Court?

\$_____

If you awarded any damages in response to this question, answer Question 4. If you awarded no damages in response to this question, answer no further questions and have the foreperson sign and date this form.

QUESTION 4: Has Yahoo proven by clear and convincing evidence that a managing agent of National Union committed or ratified the conduct you found constituted bad faith in Question 1 with:

a) Malice?

YES _____ NO _____

b) Oppression?

YES _____ NO _____

c) Fraud?

YES _____ NO _____

Please have the foreperson sign and date this form.

Signed: _____

Foreperson

Dated: _____, 2019

When signed, notify the bailiff that you are ready to present your verdict in the court room.

Respectfully submitted,

Dated: May 13, 2019

GORDON & REES LLP

By: s/ Asim Desai
Asim K. Desai
Steven R. Inouye
Attorneys for Defendant National Union Fire
Insurance Company of Pittsburgh, Pa., a
Pennsylvania Corporation

Dated: May 13, 2019

NICOLAIDES FINK THORPE
MICHAELIDES SULLIVAN LLP

By: s/ Daniel I. Graham Jr.
Richard H. Nicolaides, Jr.
Daniel I. Graham, Jr.
Matthew C. Lovell
Attorneys for Defendant National Union Fire
Insurance Company of Pittsburgh, Pa., a
Pennsylvania Corporation